

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-2(c)
GENOVA BURNS

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In re:

CONGOLEUM CORPORATION,¹

Debtor.

Chapter 11

Case No. 20-18488 (MBK)

Judge: Hon. Michael B. Kaplan

BATH IRON WORKS CORPORATION,

Plaintiff,

v.

Adv. 20-01439 (MBK)

CONGOLEUM CORPORATION,

Defendant.

BATH IRON WORKS CORPORATION'S MOTION FOR SUMMARY JUDGMENT

¹ The last four digits of the Debtor's federal tax identification number are 8678. The Debtor's corporate headquarters is located at 3500 Quakerbridge Road, Mercerville, New Jersey 08619.

Pursuant to Rule 56 of the Federal Rule of Civil Procedure and Rule 7056 of the Federal Rules of Bankruptcy Procedure, Bath Iron Works Corporation (“**BIW**”) respectfully moves this Court for entry of an order granting summary judgment against Congoleum Corporation (“**Congoleum**” or “**Debtor**”). For the reasons set forth in its Motion, and in its accompanying Brief in Support of BIW’s Motion for Summary Judgment and BIW’s Statement of Material Uncontested Facts, BIW respectfully requests the Court grant summary judgment in favor of BIW and enter the following declarations:

- i. Paragraph 104 of the 2010 Confirmation Order which implements the terms of the Century Sale Order and states that BIW has no responsibility for any of the liabilities of the Congoleum Flooring Business, was a finding that BIW was not a successor to the Congoleum Flooring Business and that the phrase “any liabilities” included all liabilities, including environmental liabilities;
- ii. Paragraph 104 of the 2010 Confirmation Order, which implements the terms of the Century Sale Order and states that BIW has no responsibility for any of the liabilities of the Congoleum Flooring Business, was actually litigated and was necessary to the approval of the Century Sale Agreement and to the 2010 Confirmation Order and ultimately to Congoleum’s emergence from its First Bankruptcy Case;
- iii. BIW and Congoleum were both parties to Congoleum’s First Bankruptcy Case;
- iv. Paragraph 104 of the 2010 Confirmation Order is binding on Congoleum and enforceable against Congoleum.
- v. This Court is making no determination about the extent to which the 2010 Confirmation Order is binding on other creditors or parties in interest in the First Bankruptcy Case as that issue was not presented by this Motion.

Dated: January 28, 2021

Respectfully submitted,

/s/ Daniel M. Stolz

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